

Iowa Power Fund Board Meeting Minutes

October 8, 2007

**Iowa Utilities Board Hearing Room
350 Maple St
Des Moines, Iowa**

Board and Due Diligence Committee Members* Present

Fred Hubbell (Chair), Public, Appointed by Governor, Des Moines
Glenn Cannon, Public, Appointed by Governor, Waverly
Peter Hemken, Public, Appointed by Governor, Des Moines
Carrie La Seur, Public, Appointed by Governor, Mount Vernon
Patricia Higby, Public, Appointed by Governor, Cedar Falls
Thomas Wind, Public, Appointed by Governor, Jefferson
Cecil Wright for John Norris, IA Utilities Boards, Agency Director, Des Moines
Mike Tramontina, IA Department of Economic Development, Agency Director, Des Moines
Rich Leopold, IA Department Natural Resources, Agency Director, Des Moines
Bill Northey, IA Department of Agriculture and Land Stewardship, Secretary, Des Moines
Senator Hubert Houser, IA Sen. Min. Caucus, Ex-officio non-voting, Carson
Senator Roger Stewart, IA Sen. Maj. Caucus, Ex-officio non-voting, Preston
Representative Nathan Reichert, IA House Maj. Caucus, Ex-officio, non-voting, Muscatine
Kent Henning, IA Private College, Ex-officio non-voting, Des Moines
Andy Baumert for Gregory Geoffroy, IA Board of Regents, Ex-officio non-voting, Ames
Lucy Norton, Public, Appointed by Governor, Clive
***Vern Gebhart**, Public, Appointed by OEI, Marion
***Floyd Barwig**, Iowa Energy Center, Appointed by OEI, Ames

Members of Board and Due Diligence Committee Members* Not Present

Representative Chuck Soderberg, IA House Min. Caucus, Ex-officio non-voting, LeMars
Mary Jo Dolan, IA Association of Community Colleges Trustees, Ex-officio non-voting, Des Moines
***Ted Crosbie**, Public, Appointed by OEI, Earlham
***Curt Hunter**, IA Board of Regents, Appointed by OEI, Coralville
***Franklin Codel**, Public, Appointed by OEI, West Des Moines

Approval of 9/26/07 Meeting Minutes

Roya Stanley opened the discussion of the detail needed for the minutes. General consensus was if the meeting is taped, full transcription is not needed. Chair Hubbell noted that enhancements will be made to the minutes and resubmitted to the board for approval at the next meeting.

Chair Remarks

None for today's meeting.

Director's Remarks

Director Stanley stated that committees have been very active and more action should result. Roya also stated that feedback is needed regarding Energy Forums. Plans need to be finalized and notices issued.

AM Public Comment

None

Committee Reports

The primary purpose of today's meeting is for committee reports. Approval of rules is needed by late October in order to meet goal of opening business on February 1.

Due Diligence Committee

Roya Stanley reported that the Due Diligence Committee will meet after the Board meeting today. Issues will include: Due Diligence Committee (DDC) operations and rules.

Planning Committee

Notes from 10/4 meeting were distributed. Date for energy forum announcement was set for October 9th.

Option of using ICN conferencing or presenting forums via webcast was discussed. Chair Hubbell pointed out the issue of time constraints and that next year will present many other opportunities for public input and access.

Plan for coalescing public comment was brought for discussion. Director Leopold suggested using a responsiveness summary. The idea of organizing comments around both the question and technologies was also mentioned.

The Board reviewed the dates of the public forum to make sure that at least one Board member and possibly a Due Diligence Committee member would be able to each forum.

Tom Wind reviewed a survey on other states energy plans. He will complete the survey later this week along with a summary of which other these plans that might be best to use as a model.

Applications Committee

Michael Tramontina distributed notes from the Applications Committee conference call held last week. Director Tramontina then opened up discussion on the application process. Kent Henning, Richard Leopold and Tom Wind all offered up suggestions on what the application process would entail.

Director Tramontina was asked if the committee had discussed an application fee structure. The director replied that they had not. Counsel added that an application fee would have to be authorized in statute and it is not currently.

Director Tramontina next opened discussion on dividing funds into various sections with each section having its own application process.

Chair Hubbell reviewed various points of the boards' discussions for them to consider. These points included: that some form of segmentation is desired, rules should only contain what is needed to allow for more flexibility, and the use of 2 applications.

Floyd Barwig expressed concern with independently reviewing proposals as opposed to a cycle approach. Tom Wind suggested that the Due Diligence Committee rank projects for the Board review.

Rules Committee

Recent comments on the rules are located in Board folders. A copy of this document is attached at the end of the minutes. The Rules committee met by conference call on Friday 10/4. Senator Stewart spoke on the administrative costs. Carrie La Seur pointed out a comment later in the rules about a possible need for the Board to appropriate funds to the agency itself for some of its costs.

In section 2.2(1) at the last meeting the feeling was that we should leave as much discretion as possible in the hands of the Director to hire staff, take care of personnel issues, and make up advisory committee.

In section 2.2(5) there was a question as to whether there should be some Board involvement in committees to advise the Director. The Rules Committee felt this should be left to the Director.

In section 3.2(1) there is a suggestion for the application committee that applicants be required to submit materials in advance. Including any presentations that might be shown to the Board at a meeting to facilitate everyone's preparation, particularly those who might not be able to attend. Whether that is an application requirement or something that needs to be in the rules is an open question.

In section 3.2(1) item b, included the definition of statutory members, with a clause that allows a designee and a representative to participate in Board deliberations and vote in place of the statutory member if the statutory member has made a written statement to the Board to that effect. There was discussion about the voting status of the representative and general consensus was the designee and representative appointed will be able to vote and count towards the quorums needed.

In section 3.2(1) item e, this now reads; The Board annually elects from the voting membership a chair and vice chair during the first meeting in May. Is everyone OK with these changes? No comments made by Board.

In section 3.2(1) item i, Representative Reichert brought forth the question of the changes to this section. He stated that the section is taken out of statute and couldn't be changed around. Representative Reichert recommended that this be dealt with in the rule and not by amendments to the statute. Taking "I" out then replace with a new "I" that says "The Board may direct moneys from the fund to update the Iowa Energy Independence Plan". The rules committee will discuss this section further to revise.

In section 3.3(1) there was discussion whether we should be given details about the office. We need to be consistent throughout the rules about the information we give about the office. We don't want to put too much information in the rule that may change.

In section 3.3(3) we chose to give Board chair power to appointment or dissolve committees deemed necessary to accomplish work necessary to the Board.

In section 3.4, there is some new language about conflict of interest. We defined "immediate family". Richard Leopold posed the question as to whether there were protections that actions of the Board cannot benefit financially any members of the Board into the future for any length of time. Julie Pottorff expressed a concern about the way "conflict of interest" is defined. Michael Tramontina requested further definition of "author" for this section.

In section 3.4 point 3, general conflict of interest law states that one does not participate in discussion without a distinction between being asked or offering. Fred Hubbell, Julie Pottorff and Carrie La Seur discussed the detail of "conflict of interest" and Julie agreed to review the subject and come back to the board with recommendations.

In section 4.1 Senator Stewart questioned if the changing the words of "foreign" and "sustain" is appropriate. It was stated that the Board has the power to make additional statements about its purpose so long as the root of the statutory language is maintained. Julie Pottorff suggested that an independent statement could be drawn, but if you're repeating the statute it is difficult to change words here in there. Fred Hubbell suggested saying "the purpose as defined in the statute". It was decided to delete the incorporating statute by reference.

In section 4.4(2), we deleted "If money received by the fund is less than the amount appropriated, such amount will be prorated proportionately". We took this out so as not to restrict decisions about how to allocate funds.

In section 4.4(5), there was a question about reporting requirements, and if something needs to be in the rule?

In section 4.6, we have entirely eliminated the eligibility criteria for financial assistance, and moved them to 4.10.

In section 4.9, we put in the language regarding documentation of potential development of certain areas of interest. Rules committee discussed putting the development of a detailed set of categories from the application committee on hold until the Application committee had an opportunity to discuss. Tom Wind and Julie Pottorff discussed the application process and its place in the rule process.

Also in 4.9 item 7 dealing with notifying applicants about what will be public information and what will be confidential. Represented Nathan Reichert suggested that something be placed in the application which states that the Board can ask for any additional information they feel is necessary to make a judgment. Michael Tramontina, Carrie La Seur, and Julie Pottorff will work on this for the applications.

In section 4.10, the Rules committee felt an appeals process would add an unnecessary layer to the process and it should be handled by judicial review. Fred Hubbell asked for counsel's recommendation on this. Julie Pottorff stated that you are less likely to need an appeals process if you don't have a deadline. Hearing no objections, the Rules Committee will write up the rule and present it to the Board for a vote.

The Rules Committee asked if any board members had outside limits they wanted to put on proposals. A change to the reference 4.1 was discussed. The rules committee will write up a summary of the language.

In section 4.11, through discussion the Board decides to take this section out. It may be something where the Director will provide verbal feedback to rejected applicants.

In section 4.12(1), delete the word “successful”. This section should read “Applicants will be notified about the Board’s decision. This notification could be at the Office of Energy Independence level or Due Diligence Committee level. This will imply some sort of regular Board approval of staff and committee decisions.

In section 4.12(4), on final action on budget revision amendments the word “not” will be inserted after would. This would be so that substantial changes would come to the full board.

In section 4.12(5) Andy Baumert offered the assistance of the Iowa State University Director of the Office of Intellectual Property to the board.

Roya Stanley reviewed with the Board the schedule on adoption of the rules. We need to have everything filed by November 2, 2007. The publication of the rule will be out November 21, 2007. Public hearing comments is a minimum of 21 days, which is December 11, 2007. We can then submit the final rule by December 26, 2007. The publication would be January 16, 2008. We can have the effective date when filed on January 16, 2007.

Julie Pottorff reviewed with the Board the emergency rule making process. Representative Reichert presented the scenario that the earliest award under and emergency rule procedure would be sometime in December as opposed to February if we go through standard rule making. Director Stanley and Julie Pottorff and the Rules Committee were tasked with organizing decisions for next meeting that will need to be made to finalize rules and applications process. If all goes as planned, work can start on applications after the October 23rd meeting.

The Rules Committee will bring a draft rule that is ready for vote at the next Board meeting on October 23. Fred Hubbell requested that the Applications Committee meet with the Rules Committee to make sure that what both committees are doing works together.

Public Comments PM

None

Meeting Schedule Arrangement for 2007

The next meetings are;

Tuesday, October 23 1:00 – 5:00

Friday, November 9 10:00 – 3:00

Monday, December 3 10:00 – 3:00

Meeting Schedule Arrangement for 2008

The 2nd Wednesday in January, January 9

The 2nd Wednesday of the month for the following months

The one thing to remember is that the Due Diligence committee will have to be done the week before the Board meetings. It was proposed that they meet the first Wednesday of each month to allow 1 week before the Board meetings.

